CHAPTER 5: Other topics

5.1 Non/short recovery of railway dues

5.1.1 West Central Railway: Short recovery of lease charges of land

The failure of the Railway Administration to adopt the correct rates for assessment of cost of land and recover lease charges accordingly resulted in loss of Rs.9.76 crore

As per Railway Board's orders of October 2001, land was to be leased to Government Departments on long term basis for a period of 35 years against lump sum payment of lease charges equivalent to 99 per cent of the current market value of land plus a nominal licence fee of Rs.1000 per annum.

Urban Improvement Trust (UIT) Kota sent a proposal in August 2000 to Divisional Railway Manager Kota for construction of a road on Railway land along the railway track between Dakaniya Talav and Kota junction. In a meeting held (December 2002) between the representatives of Railway and UIT, the area of land to be leased was assessed at 54080.68 square meters and valued at Rs.1.23 crore. The proposal was approved by Railway Board in October 2006 with the instructions that land may be leased on payment of 99 per cent of current market rates plus Rs.1000 to be recovered per annum as nominal lease charges for a period of 35 years.

Audit scrutiny of records of Kota Division revealed that Divisional Authorities instead of calculating the cost of land at the current market rates, handed over the possession land in November 2006 at the rates arrived at in December 2002. In this connection the following deficiencies were noticed:

- Though the rates communicated by Deputy Registrar in May 2002 for residential and commercial land at Chhaterpura were Rs.220 and Rs.485 per square foot respectively, the Railway had applied the rates for commercial land at Rs.425 per square meter instead of Rs.485 per square foot. The incorrect adoption of rates as per square meter instead of per square foot resulted in incorrect assessment of land value resulting in less realization of lease charges by Rs.5.51 crore.
- As per market rates prevailing in May 2006 the cost of the land as assessed by Audit works out to Rs.11.09 crore. Thus non-assessment of cost as per directives of Railway Board resulted in short recovery of lease charges by Rs.9.76 crore.

When the matter was taken up with the Railway Administration (March 2009) they stated (June 2009) UIT had requested for the land in August 2000 and the rates were finalized through negotiation in December 2002 considering the fact that this land was to be utilized for public convenience and further revision of rates would not have been in the interest of both, being Government Departments. The reply is not tenable because as per policy decided by Railway lease charges were to be recovered at the current market price. Since Railway had not received the lease charges in 2002 on which

they could have earned interest for four years, the cost of land was required to be assessed at the rates prevalent at the time actual handing over of the land in November 2006.

Thus failure of the Railway Administration to adopt the correct rates for assessment of cost of land and recover lease charges accordingly resulted in loss of Rs.9.76 crore.

5.1.2 Western Railway Non-recovery of water charges

The failure of the Railway Administration to enter into an agreement with IRCTC and raise the bills for water charges resulted in non-recovery of Rs.6.16 crore

Consequent upon formation of Indian Railway Catering and Tourism Corporation (IRCTC), the business rights of all the catering units working on A, B and C class stations of Mumbai Division of Western Railway were handed over to IRCTC with effect from 1 November 2005 and 1 December 2005. As the catering and vending units working under IRCTC, had stopped the payment of water charges, Railway Board had instructed all Zonal Railways (November 2006) to recover the water charges as per extant practice from the catering and vending units whether working for IRCTC or otherwise. Railways were also advised to enter into an agreement with the IRCTC in this regard.

Scrutiny of records (October 2007) of Mumbai Division of Western Railway revealed that the Railway had neither entered into the requisite agreement nor recovered the water charges from the catering and Vending units located at various stations. Audit noticed that though the statements of water supplied to the catering and vending units were prepared, the bills for water charges recoverable were not raised. Audit reviewed the position of 489 catering and vending units and noticed that though water charges of Rs.5.97 crore and cess charges of Rs.0.19 crore thereon for the period December 2005 to March 2009 were recoverable, no bills were raised.

When the matter was taken up with the Divisional authorities, they stated (September 2008) that bills had been raised and sent to Finance for realization. The reply is not factually correct. On verification by Audit, it was noticed that only a statement of amount due was prepared and bills were neither prepared nor sent to the concerned parties.

Thus the failure of the Railway Administration to enter into an agreement with IRCTC and raise the bills for water charges resulted in non-recovery of Rs.6.16 crore.

The matter was taken up with the Railway Administration (February 2009), their reply is still awaited (December 2009).

5.1.3 East Coast Railway: Non-realisation of railway dues

Railways unilateral reduction of free time without revision of agreement led to disputes and non-realisation of Rs.4.03 crore

Ports serve as terminal agents to carry out various activities on behalf of Railway. An agreement was entered into between the Ministry of Railways and Visakhapatnam Port Trust (VPT) Railway on 13 November 1998 for discharging various activities by the Port Authority on behalf of the Railways. Clause 11(a) (I) of the Agreement provides that the rolling stock of the Railway will be allowed to remain in the Port Trust Railway area for 27 hours for single operation and 45 hours for double operation free of hire charges. After the expiry of free time, hire charges should be levied and realised at the rates in force from time to time. In case of any dispute in this regard decision of the Government shall be final.

Railway Board had decided (July 2006) that excluding time for train examination, if so mandated, the total free time inclusive of shunting etc. should be fixed on the basis of Time and Motion study. However, such total free time should not exceed 15 hours for single operation and 24 hours for double operation with effect from 01 August 2006.

Scrutiny of records revealed that as there was no standardized free time prescribed by Railway Board prior to August 2006. Railway Board vide rate circular No.63 of 2006 decided universalisation of free time for all major ports including VPT. Time and motion study was conducted in December 2006 and May 2007 and the committee recommended the free time at par with Railway Board's circular. The Railway Administration started preferring wagon hire charges bills at the revised free time from August 2006. However, the VPT objected on the ground that any change in the free time had to be mutually agreed upon as per clause 11 (a) 1 of the agreement and requested the Railway Administration to carry out revision accordingly. The VPT had also earlier (May 2007) conveyed that the issue of free time should be reviewed jointly on mutual consent after conducting time and motion study. However, the issue remained unresolved between VPT and the Railway Administrtion. As a result, wagon hire charges of Rs.4.03 crore (as assessed in audit) for the period from April 2007 to September 2008 remained unrealized.

When the matter was taken up (September 2009) with the Railway Board, they stated (December 2009) that efforts were made on several occasions at zonal level to settle the issue with VPT for implementation of the revised free time. But the same could not materialize due to non-acceptance by VPT. They further added that admissible charges would be adjusted between Railways and VPT after the outcome of the dialogue between the two Central Government departments.

The reply is not acceptable because Railway revised free time without associating VPT in the time and motion study as required by Railway Board's orders resulting in non-acceptance of the modified agreement by VPT authorities.

5.1.4 South East Central: Railway — Non-recovery of re-railing charges and interest

Failure of the Railway to include adequate provision for recovery of re-railing charges in the agreement and to monitor realization of the same from siding holder resulted in non-recovery of Rs.3.88 crore towards re-railing charges and interest thereof

As per Joint Procedure Order (JPO) (July 1991) and Railway Board's letter (November 2002), if the private party/ siding holder was held responsible for any damage to the wagons, the entire expenditure was to be borne by the siding holder. Railways were to raise the bills for the re-railing charges within the prescribed period as per the rates fixed and revised from time to time. Payment was to be received within 15 days after serving the bills. A provision/clause regarding payment of re-railing charges was to be included in the commercial agreement with the siding owners.

Audit scrutiny of records for the period from September 1993 to March 2009 revealed that railway wagons were derailed/ damaged in accidents within siding premises. Railway, however, had neither preferred bills for re-railing charges on time nor taken adequate action taken for early realization of the bills. Railways also failed to prefer any bill for levy of interest charges on delayed payment as per extant provision and Railway Board's order (March 1990). The required provision of payment of re-railing charges was not included in the commercial agreements entered into with the siding owners rendering the chances of its recovery bleak.

Thus, due to lack of adequate action to recover the re-railing charges and non-preferment of bills for interest charges on account of delayed payment, Railway had to sustain a loss of Rs.3.16 crore (re-railing charges Rs.1.05 crore and interest Rs.2.11 crore).

When the matter was brought to the notice of Railway in January 2009, they stated (May 2009) that the process to prefer bills for re-railing charges normally takes three to four months if there is no dispute with the siding holders regarding the joint findings. Where there is a dispute, it takes more time. They added that efforts are being made to realize the re-railing charges.

The reply is not tenable. JPO was framed (July 1991) after taking into consideration all the factors involved in raising the bills. Railway is required to review the position in consultation with the siding owners and realize the re-railing charges immediately.

5.2 Avoidable liability of taxes/penalties

5.2.1 Southern, Central, Northern, North: Western, North Eastern, East Coast, South Central, South Eastern and South Western Railways — Liability due to non-levy of service tax on sale of space for advertisement

Failure on the part of Railway in levying service tax as per Notification issued by the Ministry of Finance resulted in an avoidable liability of Rs.34.98 crore.

Indian Railways lease space for commercial publicity in areas like stations, approaches to major stations, level crossings, premier trains and freight wagons etc.

As per Ministry of Finance, Central Board of Excise and Customs (CBEC) Notification No.15/2006 dated 25 April 2006 issued in accordance with the Finance Bill-2006, service tax was applicable with effect from 1 May 2006 on 'sale of space or time for advertisement'. Railway Board, however, failed to issue orders based on this Notification.

Although Railways were aware that the Notification had no provision for exemption from payment of service tax for Railway, they failed to mention the applicability of service tax in the tender documents. This led to non-incorporation of a suitable clause in the contract agreements making the levy of service tax legally not enforceable. On sustained pursuance by the Central Excise Authorities, the Ministry of Railways, instead of issuing orders to implement the levy of service tax for the ensuing period, requested (November 2007) the Ministry of Finance to exempt Railway from the levy of service tax. The request was turned down in December 2007.

Audit observed that after a similar request by Railways in March 2006 for exemption from the levy of service tax on 'catering services in trains' was not responded to, the Railway Board had made the levy of service tax applicable prospectively (18 April 2006). In regard to levy of service tax on sale of space for advertisement, the Railway Board failed to implement the orders in spite of a categorical denial of exemption by the Ministry of Finance in December 2007. On the contrary, the Ministry of Railways has approached the cabinet for exemption of tax in February 2009. There was no outcome till the end of July 2009.

Inaction of the Railway Board after the issue of CBEC's Notification (April 2006) thus resulted in non-levy of service tax leading to avoidable liability on the Railways. Audit has assessed that nine Railways are liable to pay a sum of Rs.34.98 crore (Southern-Rs.7.12 crore, Central-Rs.9.24 crore, East Coast-Rs.0.57 crore, Northern-Rs.12.11 crore, South Central-Rs.3.01 crore, South Eastern- Rs.0.56 crore, South Western- Rs.1.02 crore, North Western-Rs.0.94 crore and North Eastern-Rs.0.41 crore) to Central Excise authorities towards service tax not levied by them during the period May 2006 to March 2009.

When the matter was taken up (March 2009) with the Southern Railway Administration, they stated (June 2009) that since no specific instructions

from Railway Board were available for the levy of service tax, the issue was not included in the tender documents and no recovery was made. The reply is not acceptable as in the capacity of a service provider, Railways are responsible to levy the service tax and remit the same to the Central Excise Authorities. Issue or non-issue of Railway Board's orders is an internal matter and has no bearing on the applicability of the levy of service tax as per the Notification.

5.2.2 South Western Railway: Non-deduction of mandatory cess charges from the contractors

Railway failed to deduct mandatory cess charges to the extent of Rs.6.06 crore from the contractor bills resulting in an avoidable liability of Rs.5.18 crore.

Government of India enacted Building and other Construction workers Welfare Cess Act, 1996. Government of Karnataka, with a view to enforce the provisions of the main Act, formulated Building & other Construction workers Rules 2006 and made them effective from 1st November 2006. It was mandatory for all the Government departments etc. carrying out any building or other construction works through the contractors to deduct one percent of the tendered value of the work from contractor's bill. The amount so collected was to be remitted with in 30 days to Karnataka State Building and Other Construction Workers Welfare Board failing which interest/penalty was leviable.

A review of contracts executed during November 2006 to March 2009 on three Divisions (Bangalore, Hubli and Mysore) and Construction Organisation of South Western Railway revealed that out of total 1279 contracts executed, clause for the recovery of cess charges was not incorporated in 1016 contracts. As a result, cess charges (Rs.5.18 crore) would not be legally leviable. In the remaining 263 contracts (value- Rs.88 crore), though the clause for the deduction of cess charges was incorporated, cess charges were not being deducted. Further, 524 contracts had already been finalized at a cost of Rs.130.46 crore without deducting cess charges (Rs.1.30 crore). Cess charges (Rs.4.76 crore) had also not been deducted while making payments against 755 contracts for which works were in progress.

Thus, Railway Administration failed to deduct mandatory cess charges of Rs.6.06 crore. This included avoidable liability of Rs.5.18 crore on account of non-incorporation of suitable clause in the contracts.

When the matter was taken up (March 2009) with the Railway Administration, they stated (September 2009) that Railway Board's instructions to incorporate a clause in the contracts for the deduction of cess charges at the rate of one percent were received in September 2008. There are no specific instructions about the post facto recovery of cess charges and its remittance with interest. The reply is not tenable as the Administration is legally bound, as per the provisions of the Act, to deduct cess charges with effect from 1st November 2006 and pay interest/penalty for delays/non-payments.

5.2.3 West Central Railway Avoidable payment of penalty

The failure of Railway Administration to pay a small amount on account of fee for enhancement of contract demand resulted in avoidable payment of penalty of Rs.4.11 crore

Keeping in view the concept of 'Simultaneous Maximum Demand' (SMD) introduced in the tariff for the year 2006-07 by the Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVCL), the contract demand of all the sub stations in Bhopal Division was reduced as under this concept all traction points under one licensee were taken into account for computing the maximum demand during a month. However, the concept of SMD was withdrawn from 16 April 2007 and the Divisional Authorities of Bhopal requested (April 2007) MPMKVVCL for enhancement of contract demand. The MPMKVVCL communicated (June and July 2007) the approval of enhanced contract demand with effect from 1 May 2007 subject to execution of supplementary agreements. It was stipulated that the enhanced contract demand would take effect from the date of finalization of the supplementary agreements. They also asked Railways to deposit charges at the rate of Rs.100 per KVA subject to a maximum of Rs.1.00 lakh per connection on account of fee for enhancement of contract demand. Instead of making the payment, the Railway Authorities referred the matter to the Madhya Pradesh Electricity Regulatory Commission (MPERC) for reviewing the new tariff and also contested that the charges demanded by MPKVVCL were not payable by them. The MPERC in their order (October 2007) directed Railways to pay the charges as these were payable under the rules. Even after the receipt of order from MPERC, the Railway Administration took four months for arranging the payment of Rs.6.00 lakh which were deposited on 7 February 2008 and the agreement was made effective from 15 February 2008. Audit scrutiny of records relating to payment of electricity bills revealed that the actual contract demand had exceeded the contract demand at all the six sub-stations and as a result the MPMKVVCL levied penal charges of Rs.4.11 crore which were paid by Railway during the period May 2007 to January 2008.

When the matter was taken up with the Railway Board (October 2009) they stated that the delay in making payment was primarily due to the fact that charges for enhancement of CD were paid after the enhancement was actually sanctioned. While East and West DISCOMs accepted the payment and sanctioned the enhancement from retrospective date, the Central DISCOM had not agreed to this. They added that Railway had approached the electricity Ombudsman who had asked the DISCOM to revise the bills. This will facilitate refund of Rs.4.11 crore to Railway.

The reply is not tenable because the DISCOM has not accepted the decision of Ombudsaman and represented to the MPERC against the orders. The fact remains that delay in payment of a small amount has caused liability of huge penalty and Railway's claim for refund is still undecided.

5.2.4 North Eastern Railway: Avoidable payment of penalty due to non-maintenance of power factor

Failure on the part of the Railway Administration to maintain power factor led to avoidable payment of penalty of Rs.2.39 crore

Clause (8) of the power purchase agreement of the Uttar Pradesh State Electricity Board (UPSEB) now the Uttar Pradesh Power Corporation Ltd. (UPPCL) stipulates that it is obligatory to maintain an average power factor of more than 0.85 during any billing period, failing which a surcharge of 15 per cent of the amount of the bill would be levied as penalty.

Scrutiny of records revealed that due to failure to maintain average power factor of more than 0.85 at Signal Workshop, Gorakhpur, Railway Administration paid Rs.2.39 crore as penalty from 2004-05 to March 2009.

When the matter was taken up with the Railway Board (August 2009), they stated the Mechanical Workshop, Gorakhpur had initiated proposal to install the Automatic Power Factor Corrections (APFC) panel in the year 2004-05, but the same could not materialize due to paucity of funds and it was dropped. They further added that efforts were made to install the power capacitors of 350 KVAR at Signal Workshop and Bridge Workshop to improve power factor but it could not be sanctioned due to non-availability of funds. However, a proposal had been initiated (2008-09) for installation of 1800 (3x600) KVAR (APFC) panel for Signal and Bridge Workshop which was under finalization.

The reply is not acceptable as the Railway Administration had the resources to pay penalty to the tune of Rs.2.39 crore but they could not make provision of fund to the tune of Rs.30 lakh for installation of APFC.

5.3 Avoidable payment of water/electricity charges

5.3.1 Central Railway Avoidable extra expenditure on procurement of water for domestic use

The failure of the Railway Administration to pursue the matter of charging water at domestic rates and replacement of defective meters for three to six years has resulted in avoidable extra expenditure of Rs.1.00 crore

Water for use at Balharshah station and railway colony is procured from Maharashtra Water Supply and Sewerage Board (MWSSB) and for this purpose an agreement was signed in December 1987. As per provisions of agreements, the cost of water is payable at the rates prescribed and approved by MWSSB from time to time. Since the entire quantity of the water supplied by MWSSB was being consumed in residential quarters, the Railway Administration had approached the supplier for charging the water at domestic rates instead of commercial rates. In response, the MWSSB had suggested that Railway should construct a separate storage tank to collect water exclusively used for staff quarters so that their request for charging domestic rates can be considered.

Audit scrutiny of water charges bills of Balharshah revealed that though Railway had constructed two underground water tanks in July 2001 and one overhead tank in April 2004, they did not approach the MWSSB for charging the water at domestic rates and continued to pay the water charges at commercial rates. Thus the inaction on the part of Railway Administration to take appropriate steps resulted in avoidable extra expenditure of Rs.0.84 crore during August 2001 to March 2009.

Scrutiny of records of Solapur Division revealed that water meters installed in two residential bungalows had gone out of order in November 2003 and May 2006. As per rules, Solapur Municipal Corporation (SMC) charge the minimum fixed amount for water supplied to quarters with defective meters for two months and double the same if the meters are not rectified thereafter. Audit observed that the defective water meters had not been rectified or replaced and the charges were being paid at double the minimum charges. This has resulted in extra payment of Rs.0.16 crore till March 2009.

When the matter was taken up with the Railway Administration (April 2009), they stated (July 2009) that Railway had approached the MWSSB in December 1999 for charging the water at domestic rates but they are not agreeing on the pretext that clear cut demarcation of water supply does not exist. As regards replacement of defective meters, it was stated that Railway had been making sincere efforts to get the meters replaced and payment in this regard had also been made but the SMC has not installed the new meters as yet. The reply is not tenable because the records indicate that Railway had not approached the MWSSB for eight years after commissioning of the separate tanks in 2001 and it was only in March 2009 that they asked the MWSSB to consider their request for charging the water at domestic rates. Similarly Railway remained silent after depositing the cost (July 2006) of meters and asked SMC only in June 2009 for replacement of meters and adjustment of the extra amount paid to them.

Thus the failure of the Railway Administration to pursue the matter of charging water at domestic rates and replacement of defective meters for three to six years has resulted in avoidable extra expenditure of Rs.1.00 crore.

5.3.2 Central Railway Avoidable extra expenditure due to non-provision of Water Recycling Plants

Failure of the Railway Administration to take appropriate action for installation of WRPs at locations having heavy demand of water for non-domestic use has deprived them the benefits of cost saving of Rs.0.66 crore

Keeping in view the success of Water Recycling Plant (WRP) installed at Carnac Bunder Yard of Mumbai Division over Central Railway, Railway Board directed (July 1999) to all zonal Railways to consider installation of WRP at important stations where augmentation of existing sources of water or creation of additional sources would be expensive. Since availability of water was getting scarce day by day, Railway Board directed (July 2006) all zonal Railways to plan installation of WRPs at all major locations where there was heavy demand for water for domestic and non-domestic use. In August 2006, Railway Board again directed the Railways to identify such locations on

priority where it would be useful to install WRP and asked them to propose such works in their woks programme.

Audit scrutiny of records of Central Railway revealed that Central Railway had successfully installed two WRPs one each at Carnac Bunder Yard (March 1999) and Nagpur (August 2003). Central Railway identified eight more locations (July 2006) but neither any proposal was sent through Works Programme nor action initiated to install WRPs. In this connection the following audit comments arise:

- Though the daily requirement of water for non-domestic use at four locations viz. Wadi Bunder, Lokmanya Tilak Terminal, Pune and Solapur was more than three lakh litres and at two locations viz Kalyan and Panvel it was in the range of 60,000 to 91,000 litres, Railway is meeting their requirement by obtaining water from Municipal Corporation and other Government bodies or supply through private tankers. While the water obtained from Municipal Corporation and Government was costing almost double that of the water obtained through Recycling Plant, the cost paid to private tankers was two and half time to six times more. Had the Railway taken urgent action to install the WRPs at these six locations, they could have achieved a saving of Rs.0.66 crore during the years 2007-08 and 2008-09.
- Despite the fact that Railway Board had asked (August 2006) the Railway to identify and propose the locations for installation of WRPs on priority basis, Central Railway had not sent any proposal for sanction by Railway Board (September 2009). Using the recycled water for washing of platforms, aprons and coaches could, besides saving in costs, help in achieving the environmental benefits by utilization of waste water.

When the matter was taken up with the Railway Board (November 2009) they stated December 2009 that Central Railway had already identified locations where WRPs are proposed to be installed and one of them has been included in the works programme of 2009-10. They added that other locations wouldl be taken up for sanction and execution in the coming years subject to availability of funds. The reply is not tenable because keeping in view the success of installing WRP as far back as in 1999, Central Railway was slow in taking action to install WRPs at other locations and the directives issued by Railway Board were not implemented even after three years thereby depriving them the benefits of a more cost effective option that could have saved Rs.0.66 crore.

5.3.3 East Central Railway: Extra payment due to incorrect billing

Failure of Railway Administration to get the defective meter replaced resulted in overpayment of Rs.1.12 crore

Bihar State Electricity Board (BSEB) supplies electricity for traction and other than traction purposes to East Central Railway on terms and conditions as specified in Tariff Notification issued from time to time. As per clause 16.8 of

BSEB's tariff effective from 21.6.1993, if an energy meter goes out of order for any reason during any month/months, consumption for the ensuing month/months shall be assessed on average consumption of previous 3 months from the date of meter being out of order or average consumption for the corresponding 3 months of previous year's consumption or the minimum monthly guarantee, whichever is the highest. Such consumptions will be treated as actual consumption for all practical purposes until the meter is replaced/rectified. Subsequently in November 2006, these provisions were modified and as per clause 7 of tariff notification effective from 1.11.2006, in the event of meter being out of order for any reason, the Board or the Consumer as the case may be, shall replace the same within the specified period of seven days. It has also been provided therein that till defective meter is replaced the consumption will be assessed and billed on an average consumption of last 12 months from the date of meter being out of order.

Audit scrutiny of records revealed that the energy (HT) meter provided by BSEB at Jhajha Station under Danapur Division had gone out of order since March 2002 and Railway Administration was making payment for 3,28,233 units per month since then. However, the average consumption of 12 months was worked to 2,52,308 units, thus resulting in excess charging of 75,925 units per month by BSEB which involved extra payment of Rs.3.23 lakh per month from November 2006 and Rs.3.17 lakh per month from September 2008. Therefore, the Divisional Electrical Engineer, Danapur requested (February 2007) the BSEB authority to rectify the defective meter and to adjust the excess payment made so far. It was further seen from the records that except a few requests/correspondence made with BSEB for replacement of defective meter, the Railway Administration had not taken any effective action at the highest level. They also failed to replace the meter by themselves as decided (23 June 2004) during co-ordination meeting with BSEB and also as provided in tariff effective from November 2006 and the continued payment of electricity charges as demanded by BSEB resulted in huge excess payment to BSEB.

Thus, failure of Railway Administration to get the defective meter replaced even after 1 November 2006 as per provisions of tariff resulted in extra payment of Rs.1.12 crore during the period November 2006 to September 2009.

On the matter being taken up, the Divisional Electrical Engineer (G), Danapur stated (February 2009) that BSEB had been repeatedly requested for replacement of the meter. The reply is not tenable as Railway themselves could have initiated action for the replacement of the defective meter as provided in clause 7 of BSEB Tariff effective from November 2006.

5.4 Miscellaneous

5.4.1 Southern, South Central,: South Eastern and Northeast Frontier Railways *Loss due to non-elimination of uneconomic temporary stoppages*

Railways failure in getting the uneconomic temporary stoppages eliminated resulted in avoidable loss of Rs.33.54 crore.

Railway Board stipulated (June 2005) that the minimum number of tickets to be sold at a station so as to recover the cost of stoppage of a Mail/ Express train should be 40 or more for sleeper class per day per train for a distance of 500 kms or its equivalent. The cost of one temporary stoppage as assessed by the Railway Board ranged between Rs.4376 and Rs.5396. The Zonal Railways were directed to review stoppages for withdrawal and send recommendation to the Railway Board. The following criteria were fixed for the provision/withdrawal of stoppages-

(i) no stoppages to be provided when the trains are passing at odd hours,

(ii) no stoppages to be provided to long distance trains in Sub-urban sections, and

(iii) no stoppages to be provided in sections having a capacity utilization above 90 per cent.

After reviewing the status of stoppages, Southern Railway Administration intimated (February 2007) the Railway Board that there were 126 stoppages for Mail/Express trains having issue of less than 40 tickets for sleeper class per day per train. These stoppages were described as having been provided (i) at the requests of MOSR/MPs (ii) with the approval of the Railway Board and (iii) at station (Chennai Beach) in the heart of the city. Railway Administration, however, did not recommend for their elimination.

A review of records in Audit connected with the temporary stoppages existing as on 1 April 2006 and introduced thereafter up to 31 October 2007 revealed that 88 stoppages (69 stoppages as identified by the Administration and 19 stoppages introduced during November 2006 to October 2007) were uneconomical. Out of these, 77 stoppages were falling under at least one of the criteria. After deducting the earnings from reserved tickets, the continuance of these stoppages resulted in an avoidable net loss of Rs.25.36 crore. Similarly, avoidable loss due to continuance of uneconomic temporary stoppages was also noticed on South Central Railway (18 stoppages- Rs.6.14 crore), Northeast Frontier Railway (13 stoppages-Rs.1.71 crore) and South Eastern Railway (1 stoppage-Rs.0.33 crore).

In spite of the policy guidelines laid down by the Railway Board for the provision/elimination of uneconomic temporary stoppages, Railways continued them resulting in avoidable loss of Rs.33.54 crore.

When the matter was taken up (March 2009) with the Southern Railway Administration, they stated (August 2009) that stoppages are decided based on

certain parameters, including social service obligations. Provision of temporary stoppages on the representations of public representatives can not be ignored. It is not feasible to withdraw the stoppages with out considering the patronage over a period of time. As such, Railway Administration sought for the regularization of temporary stoppages. The reply is not tenable as Railway Board's guidelines of June 2005 specifically addressed the issue of cost of stoppage and need for recovery thereof. These stoppages though stated to have been initiated on Public representations/meeting social obligations should have been discontinued as even the minimum cost of stoppage could not be recovered.

5.4.2 Northeast Frontier: Railway — Avoidable expenditure due to injudicious constitution of Arbitration for settlement of claims on 'Excepted matters'

Injudicious constitution of arbitration for settlement of claims on 'excepted matters' in violation of the contractual provisions resulted in an avoidable expenditure of Rs.6.76 crore

As per General Conditions of Contract (GCC), 1979 and 1998, all disputes and differences arising out of contracts and specifically falling under the category of 'excepted matter' should be excluded from the purview of the arbitration clause and not referred to arbitration and the decisions of the Railway authority thereon shall be final and binding on the contractor. The Supreme Court of India in their judgement of March 2002 had clearly laid down that the claims on 'excepted matters' should not be allowed to be arbitrated upon.

Audit scrutiny of 18 numbers of arbitration cases settled during 2004-08 revealed that although in all the cases the claims were falling under the category of the 'excepted matters' i.e. non-arbitrable, they were referred to the Arbitrator indiscriminately for adjudication. Subsequently, the award given by the Arbitrator was honoured by the Railway Administration without making any effort to challenge their arbitrability in the Court. This has resulted in gross violation of contractual sanctity and verdict of the Supreme Court. Thus, injudicious constitution of arbitration for settlement of claims on 'excepted matters' resulted in avoidable payment of claims of Rs.6.76 crore to contractors, which were otherwise not payable.

When the matter was taken up with the Railway Administration (March 2009); they stated (July 2009) that they have challenged the award in court but could not obtain favourable order in some cases as there was no leading case disposed by the court in support of Railway and due to this reason award had to be honoured.

The reply of the Railway Administration is not acceptable because Clause 63 of the General Conditions of Contract, 1998 clearly stipulates that all matters specifically provided under statute for finality in decision by the Railway authority shall be deemed to be excepted and not referable for arbitration.

Further, the Railway Administration had in no occasion challenged arbitrability of the claims placed at the disposal of the arbitrator. Thus, by referring 'excepted matters' for arbitration in 18 cases, the Railway Administration sustained avoidable expenditure of Rs.6.76 crore.

5.4.3 South Eastern, North Eastern, : West Central, Southern, South Western and East Central Railways — Non-implementation of Railway Board's orders

Failure to switch over from old BSNL scheme to new scheme of M/s Bharati Airtel for Closed User Group (CUG) phones led to extra expenditure of Rs.5.68 crore

As per Railway Board's order dated 15 February 2008 a new Closed User Group (CUG) (Airtel) scheme was to be implemented in all Indian Railways w.e.f. April 2008 through Rail Tel Corporation of India Limited (RCIL). New CUG scheme was expected to result in substantial savings as there was no fixed rental charges unlike existing BSNL CUG scheme. Besides, new CUG scheme offered national CUG as well as free calls in certain CUG plans which would benefit users. The zonal railways were to facilitate RCIL towards installation of all facilities and approvals required for improving coverage of the CUG net work along the railway track. The old CUG/mobile scheme was extended up to 31 March 2008 after which zonal railways had no power to continue out side the new scheme.

Scrutiny of records of Chief Signal and Telecom Engineer, (CSTE) revealed that the new rent free scheme of M/s Airtel was not implemented till May 2009. A proposal was belatedly submitted to RCIL in July 2008 for provision of 8000 connections over South Eastern Railway but the scheme actually materialised from June 2009. However, extent of deactivation of old CUGs could not be ascertained for want of information from the Railway Administration. The Railway Administration continued with 9846 CUG phones under old scheme on payment of fixed monthly rental charges (Rs.325 each) to BSNL and incurred an extra expenditure of Rs.4.47 crore during the period April 2008 to May 2009.

The matter of non-implementation of new CUG scheme w.e.f. April 2008 was brought (April 2009) to the notice of Railway Administration. In reply (June 2009), the Railway Administration while accepting the extra expenditure of Rs.2.86 crore citing actual user no.7329, stated that continuing with the existing CUG scheme (BSNL) was considered unavoidable as net work coverage of Airtel was poor. As such switching over to new CUG scheme without ensuring adequate network coverage would have severely affected train operations. The reply is not acceptable. The actual number of existing users (BSNL) as of May 2008 was 9846. No evidence/details of surrender of any of the existing connections had been noticed. All Zonal Railways barring a few switched over to the new CUG scheme with a little delay. Implementation of the scheme need not have put on hold on account of

inadequate quality of signal in some areas which could have been resolved by the service provider.

Similar review conducted on other Railways revealed that the new rent free scheme was not implemented in time and an extra amount of Rs.1.21 crore was incurred as follows:

SL.No.	Name of Railways	Date of implementation of new scheme	Amount of extra expenditure
1.	North Eastern Railway	28-5-2008	Rs.0.14 crore
2.	West Central Railway	16-7-2008	Rs.0.13 crore
3.	Southern Railway	July 2008	Rs.0.57 crore
4.	South Western Railway	16 August 2008	Rs.0.33 crore
5.	East Central Railway	July 2008	Rs.0.04 crore

5.4.4 Southern Railway: Incurrence of avoidable cost of operation due to non-cancellation of poorly patronized trains

Railway's failure in canceling poorly patronized trains resulted in incurrence of avoidable operational cost to the extent of Rs.5.39 crore

Railway Board ordered Railways (June 2005) to propose cancellation of trains having earning potential below 30 percent on an average for the whole year in both directions. Trains having good earning potential only in few peak months and below 30 percent during a major portion of year (more than six months) were also to be proposed for cancellation during lean months. Final decision on General Manager's proposal was to be taken by the Railway Board.

Railway Administration, considering above criteria, identified 14 poorly patronized trains for cancellation and furnished (November 2006) the proposal to Railway Board. The proposal for cancellation was not responded to by the Railway Board nor was the case pursued thereafter by the Railway Administration. The subject list included train Nos. 839/834 running from Vriddhachalam (VRI) to Cuddalore (CUPJ) and train Nos. 840/833 running from CUPJ to VRI. Poorly patronized Train Nos.105 and 106 running between Villupuram (VM) and Puducherry (PDY) were reported as already cancelled.

A review of census reports for the period May 2006 to November 2008 revealed that all trains proposed for cancellation and Train Nos. 105 and 106 were still running. It was further noticed in Audit that the occupancy in passenger Train Nos. 839/834, 840/833, 105 and 106 had been continuously below 30 percent both in peak/lean periods. Train Nos. 105 and 106 were running utilizing the slip coaches moved between Chennai Egmore (MS) and VM by Train Nos.6123/6124 for five days a week. The services were converted to regular trains with revised timings from 8 February 2008. For the cancellation of Train Nos.839/834 and 840/833, crew rest room facility was

required at CUPJ. Further, due to non-availability of water hydrant facility at CUPJ, watering for the Train Nos.835 (a pairing train) was needed to be done at VRI. No arrangements for providing these facilities were, however, made (March 2009) by the Railway. Non-cancellation of these trains resulted in incurrence of avoidable operational cost to the extent of 5.39 crore during January 2007 to March 2009.

When the matter was taken up (March 2009) with the Railway Administration, they stated (August 2009) that Train Nos.105/106 were retained due to popular demand and after re-organising the services from 8 February 2008. Train No. 833/834 could not be cancelled due to lack of alternate services and operational reasons like non-availability of crew rest room and water hydrants for coach watering at CUPJ. The reply is not tenable in view of the fact that Railway Administration while sending the proposal to the Railway Board in November 2006 for the cancellation of 14 poorly patronized trains including Train Nos.833/834 had already considered these factors. As per Chief Commercial Inspector's Note (February 2007) and Dy. Chief Commercial Manager/PM letter (February 2009), these train services were eminently justified for cancellation due to absence of passenger movements. As such, alternate services were not required and these trains could have been cancelled by creating crew rest room and water hydrants facilities at CUPJ. Further, poor occupancy continued even after re-organising the Train Nos. 105 and 106. Therefore, Railway Administration's contention in regard to these trains is not acceptable.

5.4.5 South East Central: Railway — Loss due to non-execution of proper agreement with siding owners

Failure of Railway Administration to execute proper agreement with the siding owners led to loss of Rs.4.32 crore towards cost of labour and additional charges on the cost of materials, in respect of wagon damage and deficiency bills

As per Railway Board's order (November 2002), the siding owners were liable to pay the charges (Labour and Material Cost) for repair of wagons, damaged due to defective tippler/retarder. In the order, Railway Board directed zonal railways to incorporate the necessary clause in the commercial agreement, executed with the siding owner in order to facilitate recovery of damage/deficiency charges from them. Rules also provide that Freight (5 per cent), Incidental (2 per cent) and Departmental (12.5 per cent) charges should be levied on the cost of material.

Audit scrutiny of damage and deficiency (D&D) bills of three sidings of Bhilai Steel Plant for the period from January 2003 to December 2008 revealed a number of discrepancies in preferring bills. Labour cost was not included in the bills from January 2003 to December 2005 and from January to December 2007. The bills from January to December 2006, including the element of labour cost are still pending in absence of any such agreement and the half yearly bills for the year 2008 are yet to be preferred. As such, an amount of

Rs.4.13 crore towards labour cost in respect of D&D bills for the period from January 2003 to December 2007 remains un-recovered.

It was also noticed that the freight, incidental and departmental charges were not included on the material cost and thus, a loss of Rs.0.19 crore was sustained by the Railway.

In reply to the audit comments, the Divisional Railway authority stated (March 2009) that in absence of any agreement, siding owners did not agree to pay the labour cost. However, they agreed to include the freight, incidental and departments charges on material cost from the January 2008 bills.

Thus, due to failure of Railway Administration to execute proper agreement with the siding owners, a loss of Rs.4.32 crore had to be sustained towards cost of labour and additional charges on the cost of materials, in respect of wagon D&D bills.

5.4.6 Northeast Frontier Railway: Poor planning in deployment of surplus gang staff

Poor deployment of surplus gang staff resulted in compromising with safety requirements of deficient sections and rendered Rs.2.02 crore on pay and allowances unfruitful

Railway Board had issued instructions (April 1989 and November 2000) that suitable advance planning should be done to identify areas in which staff was likely to be rendered surplus so that the surplus staff can be suitably and quickly re-deployed in other areas, where there are additional requirement of staff for operation and maintenance of additional/ new assets.

Audit scrutiny of records revealed that although the Railway Administration was well aware of the impending dismantlement of MG track between Mukuria – Alubari Road section consequent upon the gauge conversion of Katihar – Mukuria section, they did not plan in advance for gainful re-deployment of the surplus staff. The Mukuria – Alubari Road section was planned for dismantlement in May 2002 and was permanently suspended in July 2007. It was noticed that 255 gang man staff working in this section rendered surplus were re-deployed in the adjacent Broad Gauge (BG) section (Mukuria - Kishanganj) and MG section (Alubari Road - Naksalbari) without proper assessment of the requirement of gang staff for these sections.

Of the total 255 re-deployed gang men 135 (Gang mate-9, Keyman-4 and Trackman-122) did not have useful work to perform, and there was shortage of 432 gang staff (Gang mate-27, Keyman-46 and Trackman-359) in nine other sections of the same Katihar Division as on July 2007. The Railway Administration, however, failed to take cognizance of this ground reality. During test check of records of seven deficient sections of Katihar division it was revealed that three accidents that had occurred during October 2008, January 2009 and May 2009 were attributable to the shortage of gang staff. It may also be added here that the Standing Committee on Railways (2004) had opined that major contributing factors for accidents have been that of 'human failure'. They were of the firm view that safety being a sacrosanct area must

be given top priority and to ensure this, had suggested that the Railways must concentrate on re-training the existing work force and re-deploy the staff as far as possible

When the matter was taken up (January 2009), the Railway Administration accepted (May 2009) that the fact (dismantlement of MG track and re-deployment of staff likely to be rendered surplus) was known to them. Re-organisation of jurisdiction of Permanent Way Inspectors (PWIs) was however on the cards at that point of time and the revised workload was likely to affect the actual gang staff requirement. Hence the surplus staff was kept at the adjacent Broad Gauge (BG) section till the reorganization was finalized to avoid re-shifting of staff. They also added that the trackmen were also deputed at the work site at level crossings and bridges from safety point of view along with the Inspector of Works (IOWs) staff.

The reply is not tenable in view of the following:

(i) The re-organisation of jurisdiction of PWIs has no bearing on the re-deployment of surplus gang staff. The re-organisation of jurisdiction was aimed at re-distributing the workload of PWIs by increasing the number of posts and was not likely to have any impact on the actual requirement of gang staff for maintenance work of track especially on deficient sections.

(ii) The re-deployment of surplus gang staff for maintaining level crossing and bridges did not serve any useful purpose as the skill-sets required for maintenance of level crossings and bridges are different from the skill-sets of the gang staff due to primary difference between the nature of two jobs. Moreover, Audit noticed that the surplus gang staff (i.e. trackman etc.) was not at all deployed at level crossings and bridges along with the IOWs staff.

Thus, the Railway Administration's inaction to redeploy surplus gang staff amounted to compromising with the safety requirements of such deficient sections without obtaining full benefit of Rs.2.02 crore of pay and allowances incurred on them during the period July 2007 to December 2008.

5.4.7 North Western Railway: Diversion of railway revenue to private account

Non-remittance of railway revenue to the tune of Rs.1.96 crore realised through commercial exploitation of railway institutes/ clubs

Rules/orders provide that a Railway Institute should be looked upon as a club provided by the Railway rent free for the benefit of its employees and the General Manager may frame rules for use of Railway premises/ institutes/ clubs. The Railway Building and Railway land if any is given to the Institute to run its day to day welfare activity. The Institutes have been permitted to use the assets for non-commercial activities such as cultural celebration, sport activities and function etc. The powers for the commercial exploitation of the Railway land by way of temporary/ permanent licensing are rested only with the Railway Administration and the institutes cannot undertake the licensing

for commercial purpose. The revenue generated through the commercial exploitation is to be credited to Railway earnings

Scrutiny of records regarding land and buildings provided for the use of Railway institutes of Ajmer, Bikaner, Jodhpur and Jaipur Divisions revealed that Railway institutes/clubs had been commercially exploited without any permission from the competent authority and the revenue earned there form was not credited to the Railway revenue. It was noticed that in Ajmer Division, earnings of Rs.1.14 crore realised through commercial exploitation of Railway institutes/clubs during the period from 1996-97 to 2007-08 was not credited to Railway revenue. Similarly in Bikaner Division, earnings of Rs.0.22 crore for the period 1997-98 to 2007-08, in Jaipur Division earnings of Rs.0.35 crore for the period 1997-98 to 2007-08 and in Jodhpur Division earnings of Rs.0.25 crore for the period 2004-05 to 2007-08 were also not credited to Railway revenue. This has resulted in non-remittance of railway revenue of Rs.1.96 crore.

When the matter was brought to the notice of Railway Administration in February 2009, they stated (April 2009) that to generate funds, temporary licensing is done for day to day maintenance, running and upkeep of institutes/ clubs, the earnings thus realised are used for conducting welfare activities and maintenance of institutes/ clubs, which otherwise the Railway Administration would have to do by incurring expenditure. Hence there was no loss to Railway by way of un-realised earnings. The reply is not acceptable as the institutes had generated funds over and above the requirement of their maintenance/ upkeep though commercial leasing. The Indian Railway Establishment Manual, Volume II lays down broad guidelines for the running of a rent free institute mainly for the benefits of its employees and does not envisage commercial exploitation of Railway land/ institutes. These clearly stipulate that the Institute/ club shall be responsible for maintenance and upkeep of their premises through their own sources. In this connection it is also stated that the Divisional Railway Manager, Ajmer had correctly raised (October 2006) the issue of remittance of earnings to the Railway funds generated through commercial exploitation of Railway land/ institutes.